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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.         |
|---|-------------|----------------------|---------------------|--------------------------|
| 09/828,997  | 04/09/2001  | Zion Azar            | 127/02185           | 1331                     |
| 44909   | 7590        | 08/01/2006           | EXAMINER            |                          |
| <b>WOLF, BLOCK, SCHORR &amp; SOLIS-COHEN LLP</b><br>250 PARK AVENUE<br>NEW YORK, NY 10177 |             |                      |                     | ROLLINS, ROSILAND STACIE |
|   |             | ART UNIT             |                     | PAPER NUMBER             |
|   |             |                      |                     | 3739                     |

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/828,997             | AZAR, ZION          |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 January 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-7,10,14,15,23,24 and 29-42 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 3-7,10,14,15,23,24 and 29-42 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/10/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3-6, 10, 24, 29-31, 33, 34, 37, 38, 40-42 are rejected under 35

U.S.C. 102(e) as being anticipated by Furumoto (US 5749868). Furumoto discloses a method of selective photothermolysis. In this method blood vessels below the surface of the skin are targeted for treatment. Electromagnetic radiation is used to treat the blood vessel. The electromagnetic radiation passes through the skin to treat the blood vessel and the blood vessel absorbs more of the laser light energy than the surface. The skin surface inherently absorbs some of the energy but not as much as the blood vessel. Therefore, the skin surface temperature is inherently increased but not as much as the blood vessel since the blood vessel absorbs more energy.

Claims 3, 4, 14, 24, 29-31, 33-38, 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Eckhouse (US 6174325). Eckhouse discloses a method of treating skin disorders. In this method blood vessels below the surface of the skin are targeted for treatment. Electromagnetic radiation is used to treat the blood vessel. The electromagnetic radiation passes through the skin to treat the blood vessel and the

blood vessel absorbs more of the energy from the incoherent light source than the surface. The skin surface inherently absorbs some of the energy but not as much as the blood vessel. Therefore, the skin surface temperature is inherently increased but not as much as the blood vessel since the blood vessel absorbs more energy.

Claims 23, 29/23, 30/23, 31/23, 33/23, 34/23, 35, 36, 38/23 and 42/23 are rejected under 35 U.S.C. 102(e) as being anticipated by Eckhouse (US 5885273). Eckhouse discloses a method of removing hair. In this method hair below the surface of the skin is targeted for treatment. Electromagnetic radiation is used to remove the hair. The electromagnetic radiation passes through the skin to remove the hair and the hair absorbs more of the energy from the incoherent light source than the surface. The skin surface inherently absorbs some of the energy but not as much as the hair. Therefore, the skin surface temperature is inherently increased but not as much as the hair since the hair absorbs more energy.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7, 33/7, 34/7, 37/7, 38/7, 39/7, 40/7 and 42/7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furumoto. Furumoto teaches all of the

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limitations of the claims except the heating to a temperature between 55°C and 65 °C. It would have been obvious to one having ordinary skill in the art at the time the invention was made to heat the tissue to a temperature between 55°C and 65 °C, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art.

Claim 39/3, 39/4, 39/5, 39/6 and 39/41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furumoto in view of Eckhouse '273. Furumoto teaches all of the limitations of the claims except removing hair. Eckhouse teaches that it is old and well known in the art to use electromagnetic energy for hair removal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the process as claimed to remove hair, particularly in view of the teaching of Eckhouse that electromagnetic hair removal permanently kills the hair follicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosiland S. Rollins whose telephone number is (571) 272-4772. The examiner can normally be reached on Mon.-Fri. 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Rosiland S Rollins  
Primary Examiner  
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